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MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Paul MERTES, et al :
Application No. 09/381,056 : **DECISION ON PETITION**
Filed: December 21, 1999 :
Attorney Docket No. 2345/86 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before March 31, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 1, 2008.

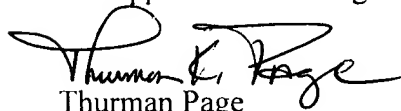
Petitioner states the issue fee was timely paid via facsimile on March 31, 2008. Petitioner has provided a copy of the previously submitted correspondence, which bears a certificate of mailing or transmission date of March 31, 2008. Since receipt by the Office cannot be determined by the evidence provided, the Notice of Abandonment mailed on April 24, 2008, cannot be withdrawn.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of \$1510; (2) the petition fee of \$1620; and (3) an adequate statement of unintentional delay. Hence the petition is therefore granted.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

A handwritten signature in black ink, appearing to read "Thurman Page". The signature is stylized with a large, looping initial "T" and a cursive "P".

Thurman Page
Petitions Examiner
Office of Petitions